HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

THURSDAY, SIXTH DAY OF JULY TWO THOUSAND SIX

WRIT PETITION No.13726 of 2006

Between:

M/s.Bommidala Packaging Limited,
Guntur. .. Petitioner

And

1. The Commercial Tax Officer,
Guntur and two others. ..Respondents

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ORDER: (Per Hon'ble Sri JC, J)**:**

Aggrieved by a decision of the 3rd respondent-Joint Commissioner (CT) Legal, Hyderabad, in rejecting the stay application of the petitioner, this writ petition is filed with a prayer as follows:-

> "To quash the order of 3rd respondent in CCTs Ref. No.LV (I)/202/06, dated 16-03-2006, refusing to grant stay of collection of disputed tax for the assessment year 1997-98 (APGST) and consequently restrain the 1st respondent from taking any coercive steps for collection of disputed tax of Rs.5,43,543/- pending disposal of the appeal filed before the Sales Tax Appellate Tribunal in T.A.No.1048 of 2005."

2. The petitioner is a registered dealer on the rolls of the 1st respondent-Commercial Tax Officer, Guntur, doing business in plastic containers. For the assessment year1997-98 under the A.P.G.S.T. Act, the petitioner was assessed. Aggrieved by the assessment, the petitioner carried the matter in appeal before the 2nd respondent-Appellate Deputy Commissioner (CT), Guntur, which was unsuccessful. Therefore, the petitioner preferred further appeal before the Sales Tax Appellate Tribunal. Pending appeal, the petitioner sought stay of recovery of the amount of tax determined by the 1st respondent as confirmed by the 2nd respondent. The stay application of the petitioner was rejected by the 3rd respondent. Hence, the present writ petition.

3. Heard the learned Government Pleader for Commercial Taxes.

4. Admittedly, out of the total amount of tax found due involved under the A.P.G.S.T.Act, half of the amount was already paid by the petitioner. The demand Notice dated 27-03-2006 itself also mentions the said fact that the petitioner paid an amount of Rs.3,30,304/- leaving balance of Rs.3,30,303/-. In the circumstances, we are of the opinion that the appeal can be disposed of at this stage. Therefore, there shall be stay of the recovery of the above mentioned balance amount, directing the respondents not to recover the tax found due from the petitioner for the assessment year 1997-98 pending a final decision by the appellate Tribunal.

6. Accordingly, the Writ Petition is disposed of with the aforementioned direction, at the admission stage. No costs.

(J.CHELAMESWAR,J)

(D.APPARAO, J)

July 06, 2006.
Kvr